CALIFORNIA ABOVEGROUND PETROLEUM STORAGE ACT

California Home Thursday, September 15, 2005

Home

About the Board

Board Business

Laws/Regulations

Press Room

Water Education

Water Quality

Water Rights

AGT PROGRAM HOMEPAGE

The Law

SPCC - US EPA Updates as of 8/16/02

Storage Statement

Subject to Act

Fees

Contact Us

Customer Services Survey

Division of Fianancial Assistant Home

QUESTIONS:

Program Specific

California Environmental Protection Agency STATE WATER RESOURCES CONTROL BOARD WATER QUALITY

C My CA This Site

Aboveground Storage Tank Program - The Law

ABOVEGROUND PETROLEUM STORAGE ACT WITH 1991, 1993, 1994 AND 1995 AMENDMENTS Chapter 6.67, Aboveground Storage of Petroleum Health and Safety Code §§25270-25270.13

[Legislative Findings] [Name] [Definitions] [Tank Facilities Subject to the Act] [Administration] [Inspections] [Storage Statement and Fees] [Monitoring Program] [Notification of Spill] [Cleanup or Abatement Expenses] [Research Grants] [Environmental Protection Trust Fund] [Civil Penalties] [Preemption]

§25270 Legislative findings

25270. The Legislature finds and declares all of the following:

- (a) There are 65,000 or more aboveground tanks in the state which hold a variety of dangerous substances which may pose minor to very serious threats to the environment and the public.
- (b) Aboveground storage tanks have been found to leak and spill into the ground and water, causing major contamination problems. In one event alone, in Martinez, California, during April 1988, an estimated 400,000 gallons of crude oil were spilled into sensitive marshes, Suisun Bay, and the Bay Delta Estuary, causing major damage to the ecosystem in the area.
- (c) Among the causes for environmental damage resulting from aboveground tanks are leaks and spills from tanks due to advanced age, defects in design or installation, human error, and equipment failure.
- (d) While there exists a statewide program for determining the amount and type of hazardous substances being stored in underground tanks, there does not exist a similar program to commence to address the problems posed by aboveground tanks.

Web Related

Regional Boards

- (1) North Coast
- (2) San Francisco Bay
- (3) Central Coast
- (4) Los Angeles
- (5) Central Valley
- (6) Lahontan
- (7) Colorado River Basin
- (8) Santa Ana
- (9) San Diego



State Water Resources Control Board 1001 I Street Sacramento, CA 95814 P.O. Box 100 Sacramento, CA 95812 (916) 341-5250 fax (916) 341-5252

Contact Us



- (e) The ability to reduce the incidence and damage from hazardous spills and leaks depends upon preventive steps taken by industry and monitoring agencies. The federal government, which has traditionally monitored aboveground tank installations, is presently experiencing a severe budget and personnel shortage devoted to the function of inspecting aboveground tanks.
- (f) The health of California's people, wildlife, fish, and vegetation depend upon a clean environment.
- (g) It is necessary to protect the state's people and natural resources by establishing a program of inspecting aboveground petroleum storage tanks.

History: Enacted by Stats 1989 Ch 1383 & sect.1.



§25270.1 Name

This chapter shall be known and may be cited as the Aboveground Petroleum Storage Act.

History: Enacted by Stats 1989 Ch 1383§1.



§25270.2 Definitions

25270.2. For purposes of this chapter, the following definitions apply:

- (a) "Board" means the State Water Resources Control Board.
- (b) (1) "Certified Unified Program Agency" or "CUPA" means the agency certified by the Secretary for Environmental Protection to implement the unified program specified in Chapter 6.11 (commencing with Section 25404) within a jurisdiction.
 - (2) "Participating Agency" or "PA" means an agency which has a written agreement with the CUPA pursuant to subdivision (d) of Section 25404.3, and is approved by the secretary, to enforce the unified program element specified in paragraph (2) of subdivision (c) of Section 25404, in accordance with Sections 25404.1 and 25404.2.
 - (3) "Unified Program Agency" or "UPA" means the CUPA, or its participating agencies to the extent each PA has been designated by the CUPA, pursuant to a written agreement, to enforce the unified program element specified in paragraph (2) of subdivision (c) of Section 25404. For purposes of this chapter, the UPAs have the

responsibility and authority, to the extent provided by this chapter and Sections 25404.1 and 25404.2, to enforce only those requirements of this chapter listed in paragraph (2) of subdivision (c) of Section 25404. The UPAs also have the responsibility and authority, to the extent provided by this chapter and Sections 25404.1 and 25404.2, to implement and enforce the regulations adopted to implement the requirements of this chapter listed in paragraph (2) of subdivision (c) of Section 25404. After a CUPA has been certified by the secretary, the unified program agencies shall be the only local agencies authorized to enforce the requirements of this chapter listed in paragraph (2) of subdivision (c) of Section 25404 within the jurisdiction of the CUPA. This section shall not be construed to limit the authority or responsibility granted to the board and the regional boards by this chapter to implement and enforce this chapter and the regulations adopted pursuant thereto.

- (c) "Fund" means the Environmental Protection Trust Fund established pursuant to Section 25270.11.
- (d) "Operator" means the person responsible for the overall operation of a tank facility.
- (e) "Owner" means the person who owns the tank facility or part of the tank facility.
- (f) "Person" means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, limited liability company, or association. "Person" also includes any city, county, district, the University of California, the California State University, the state, any department or agency thereof, and the United States, to the extent authorized by federal law.
- (g) "Petroleum" means crude oil, or any fraction thereof, which is liquid at 60 degrees Fahrenheit temperature and 14.7 pounds per square inch absolute pressure.
- (h) "Regional Board" means a California regional water quality control board.
- (i) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, escaping, leaching, or disposing into the environment.
- (j) "Storage" or "store" means the containment, handling, or treatment of petroleum, for any period of time, including on a temporary basis.
- (k) "Storage tank" means any aboveground tank or container used for the storage of petroleum. "Storage tank" does not include any of the following:
 - (1) A pressure vessel or boiler which is subject to Part 6 (commencing with Section 7620) of Division 5 of the Labor Code.
 - (2) A storage tank containing hazardous waste, as defined in subdivision (g) of Section 25316, if the person owning or operating the storage tank has been issued a hazardous waste facilities permit for the storage tank by the department.

- (3) An aboveground oil production tank which is subject to Section 3106 of the Public Resources Code.
- (4) Oil-filled electrical equipment, including, but not limited to, transformers, circuit breakers, or capacitors, if the oil-filled electrical equipment meets either of the following conditions:
- (A) The equipment contains less than 10,000 gallons of dielectric fluid.
- (B) The equipment contains 10,000 gallons or more of dielectric fluid with PCB levels less than 50 parts per million, appropriate containment or diversionary structures or equipment are employed to prevent discharged oil from reaching a navigable water course, and the electrical equipment is visually inspected in accordance with the usual routine maintenance procedures of the owner or operator.
- (I) "Tank facility" means any one, or combination of, aboveground storage tanks, including any piping which is integral to the tank, which contains petroleum and which is used by a single business entity at a single location or site. For purposes of this chapter, a pipe is integrally related to an aboveground storage tank if the pipe is connected to the tank and meets any of the following:
 - (1) The pipe is within the dike or containment area.
 - (2) The pipe is between the containment area and the first flange or valve outside the containment area.
 - (3) The pipe is connected to the first flange or valve on the exterior of the tank, if state or federal law does not require a containment area.

History: Amended by Stats 1191 Ch 1128 §1; amended by Stats 1994 Ch 1010 §163; amended by Stats 1995 Ch 639 §50.5.



§25270.3 Tank facilities subject to the act 25270.3

- (a) Except as provided in subdivision (b), a tank facility is subject to this chapter if either of the following conditions apply:
 - (1) The tank facility is subject to the oil pollution prevention regulations specified in Part 112 (commencing with Section 112.1) of Subchapter D of Chapter I of Title 40 of the Code

of Federal Regulations.

- (2)(A) The tank facility has a storage capacity of 10,000 gallons or more of petroleum.
- (B) Notwithstanding subparagraph (A), a tank facility located on a farm, nursery, logging site, or construction site is not subject to the requirements of subdivision (c) of Section 25270.5 if no storage tank at the location exceeds 20,000 gallons and the cumulative storage capacity of the tank facility does not exceed 100,000 gallons.
- (b) This chapter does not apply to any tank facility, or portion of a tank facility, subject to Section 3106 of the Public Resources Code.

History: Amended by Stats 1991 Ch 1128 §2.



§25270.4 Administration 25270.4.

- (a) Except as provided in subdivision (b), the board and the regional board shall administer this chapter with regard to a tank facility, or a portion of a tank facility, which is subject to Part 112 (commencing with Section 112.1) of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations, except for that portion of a tank facility associated with the production of oil, which shall be supervised by the Division of Oil and Gas of the Department of Conservation pursuant to Section 3106 of the Public Resources Code.
- (b)(1) If there is a certified unified program agency in a jurisdiction, the unified program agency shall enforce the requirements of subdivision (c) of Section 25270.5, pursuant to the provisions of Sections 25404.1 and 25404.2.
- (b)(2) On and after January 1, 1997, if there is no CUPA, the requirements of subdivision (c) of Section 25270.5 shall be enforced by the agency authorized pursuant to subdivision (f) of Section 25404.3.

History: Amended by Stats 1995 Ch 639 §50.5.



§25270.5 Inspections 25270.5.

- (a) By January 1, 1991, the board shall adopt a schedule for the inspection of tank facilities subject to this chapter. In adopting this schedule, the board shall give special attention to those tank facilities which are near navigable waters, potable water supplies, or sensitive ecosystems, such as wetlands and marshes.
- (b) Each regional board shall conduct periodic inspections of either each storage tank or a representative sampling of the storage tanks at each tank facility in accordance with the schedule determined by the board pursuant to subdivision (a) for compliance with the spill prevention control and countermeasure plan.
- Except as provided in subparagraph (B) of paragraph (2) of subdivision (a) of Section 25270.3, each owner or operator of a storage tank at a tank facility subject to this chapter shall prepare a spill prevention control and countermeasure plan prepared in accordance with the guidelines contained in Part 112 of Title 40 of the Code of Federal Regulations. In meeting the requirement to prepare a spill prevention control and countermeasure plan, the owner or operator may, if he or she elects to do so, use the format adopted pursuant to Section 25503.4. Each owner or operator specified in this subdivision shall conduct periodic inspections of the storage tanks to assure compliance with Section 112.7 of Title 40 of the Code of Federal Regulations. In implementing the spill prevention control and countermeasure plan, each owner or operator specified in this subdivision shall fully comply with the latest version of the regulations contained in Part 112 of Title 40 of the Code of Federal Regulations.
- (d) The owner or operator of a tank facility specified in subparagraph (B) of paragraph (2) of subdivision (a) of Section 25270.3 shall take all of the following actions:
 - (1) Conduct daily visual inspections of any tank storing petroleum.
 - (2) Allow the regional board to conduct periodic inspections of the tank facility
 - (3) Install a secondary means of containment for the entire contents of the largest tank at the tank facility, plus sufficient space for precipitation, if the regional board determines this installation is necessary for the protection of the waters of the state

History: Amended by Stats 1991 Ch 1128 §3; amended by Stats 1993 Ch 630§4.



§25270.6 Storage statement and fees 25270.6.

- (a) On or before July 1, 1990, and on or before July 1 of every two years thereafter, each owner or operator of a tank facility subject to this chapter shall file with the board a storage statement which shall identify the name and address of the tank facility, a contact person for the tank facility, the total storage capacity of the tank facility, and the location, size, age, and contents of each tank that exceeds 10,000 gallons in capacity and which holds a substance containing at least 5 percent of petroleum. A copy of a statement submitted previously pursuant to this section may be submitted in lieu of a new storage statement if no new or used storage tanks have been added to the facility or if no significant modifications have been made. For purposes of this section, a significant modification includes, but is not limited to, altering existing storage tanks or changing spill prevention or containment methods.
- (b) Each storage statement submitted pursuant to subdivision (a) shall be accompanied by a fee in accordance with the following schedule:

Total Tank Facility Storage Capacity Per Facility	Fee
Less than 10,000 gallons	\$100
10,000-100,000 gallons	\$200
100,001-1,000,000 gallons	\$400
1,000,001-10,000,000 gallons	\$1,600
10,000,001-100,000,000 gallons	\$8,000
100,000,001 or more gallons	\$30,000

(c)
The fees collected pursuant to this section shall be deposited in the fund until the total sum in the fund equals seven million five hundred thousand dollars (\$7,500,000) in any one year.

If fees in excess of seven million five hundred thousand dollars (\$7,500,000) are collected by the board, a pro rata share of the excess shall be returned to the owners or operators who paid the fee, or at the option of the owner or operator, credited to their account for a subsequent year. Expenses recovered pursuant to Section 25270.9, and penalties collected pursuant to Section 25270.12, shall not be available for return or credit to owners or operators pursuant to this subdivision. The board shall annually revise the sum of seven

million five hundred thousand dollars (\$7,500,000) to reflect the change in the cost of living in the state.

History: Amended by Stats 1991 Ch 1128 §4.



§25270.7 *Monitoring program* 25270.7.

- (a) Except as provided in subdivision (e), the owner or operator of a tank facility which meets the requirements of subdivision (b) or (c) shall establish and maintain a monitoring program pursuant to subdivision (b) or (c), as applicable, which shall be approved by the regional board, to detect releases to the soil and water, including both groundwater and surface water. The owner or operator shall establish the required monitoring program in accordance with the requirements and a schedule prescribed by the regional board. However, if the regional board requires a monitoring program, the program shall be implemented as soon as feasible, but not later than 360 days from the date of notification by the regional board that a monitoring program is required. The owner or operator subject to this section shall designate a schedule for monitoring and the sample locations, which shall be approved by the regional board. The owner or operator shall make the monitoring results available to the regional board and the Department of Fish and Game.
- (b) Each owner or operator of a tank facility subject to this chapter which, because of the tank location, tank size, characteristics of the petroleum being stored or the spill containment system, has the potential to impact surface waters or sensitive ecosystems, as determined by the regional board, shall do either of the following:
 - (1) Install and maintain a system, approved by the regional board, to detect releases into surface waters or sensitive ecosystems.
 - (2) If any discharge from a tank facility flows, or would reasonably be expected to flow, to surface waters or a sensitive ecosystem, allow a drainage valve to be opened and remain open only during the presence of an individual who visually observes the discharge.
- (c) Each owner or operator of a tank facility subject to this chapter which, because of the tank facility location, tank size, or characteristics of the petroleum being stored (16 degrees API or lighter), has the potential to impact the beneficial uses of the groundwater, as determined by the regional board, and which is not required to have a groundwater monitoring program at the tank facility pursuant to any other federal, state, or local law, shall do any of the following:
 - (1) Install a tank facility groundwater monitoring system which will detect releases of

petroleum into the groundwater, as approved by the regional board.

- (2) Install and maintain a tank foundation design which will provide for early detection of releases of petroleum before reaching the groundwater, as approved by the regional board.
- (3) Implement a tank water bottom monitoring system and maintain a schedule which includes a log or other record which will identify or indicate releases of petroleum before reaching the groundwater, as approved by the regional board.
- (4) Use other methods which will detect releases of petroleum into or before reaching the groundwater, as approved by the regional board.
- (d) Tank owners or operators shall report all positive findings from the detection systems required by subdivision (c) to the appropriate regional board within 72 hours after learning of the finding.
- (e) This section does not apply to any tank whose exterior surface, including connecting piping, and the floor directly beneath the tank, can be monitored by direct viewing.

History: Amended by Stats 1991 Ch 1128 §5.



§25270.8 Notification of spill

Each owner or operator of a tank facility shall immediately, upon discovery, notify the Office of Emergency Services, and the local administering agency using the appropriate 24-hour emergency number or 911 number as established by the administering agency or the governing body of the administering agency, of the occurrence of a spill or other release of one barrel (42 gallons) or more of petroleum which is required to be reported pursuant to subdivision (a) of Section 13272 of the Water Code.

History: Amended by Stats 1991 Ch 1128§6; amended by Stats 1994 Ch 1214§5.



§25270.9 Cleanup or abatement expenses

The board, the regional board, and the Department of Fish and Game may use funds

appropriated pursuant to Section 25270.11 to oversee the cleanup or abatement efforts, or to cause cleanup or abatement efforts, in the event of a release from a storage tank at a tank facility.

The reasonable expenses of the board, the regional board, and the Department of Fish and Game incurred in overseeing or contracting for cleanup or abatement efforts which result from a leak or spill at a tank facility are a charge against the owner or operator of the tank facility. Expenses reimbursable to a public agency under this section are a debt of the tank facility owner or operator, and shall be collectible in the same manner as in the case of an obligation under contract, express or implied. The expenses recovered pursuant to this section shall be deposited in the fund.

History: Enacted by Stats 1989 Ch 1383§1.



§25270.10 Research grants 25270.10.

- (a) The board and regional board shall periodically submit to the University of California, and publish in the State Contracts Register, a list or description of those areas of research needed by the state and private industry to better assess soil and water contamination by leaking storage tanks.
- (c) The board may award grants on a competitive bid basis, to qualified persons to conduct research in areas determined pursuant to subdivision (a).

History: Enacted by Stats 1989 Ch 1383§1.



§25270.11 Environmental Protection Trust Fund 25270.11.

(a) There is hereby established in the State Treasury the Environmental Protection Trust Fund. The money in the fund is available for expenditure by the board, upon appropriation by the Legislature, for the following purposes:

- Inspections of tank facilities.
- (2) Training of inspectors of tank facilities.
- (3) Oversight of, or causing, the cleanup or abatement of a release pursuant to Section 25270.9, including transfer to the regional board, or the Department of Fish and Game for this purpose.
- (4) Awarding of research grants pursuant to Section 25270.10.
- (5) To reimburse local and state agencies for reasonable costs incurred in responding to, overseeing the cleanup or abatement of, or causing cleanup or abatement efforts of, an accident or disaster involving an aboveground storage tank spill or release. Any local or state agency, except the board, which receives from the fund full reimbursement for these costs shall transfer to the board its right to recover costs from the owner or operator of the affected tank facility.
- (6) To provide for the long-term rehabilitation and maintenance of affected wetlands and other natural resources affected by storage tank releases. The owner, manager, or custodian of adversely affected wetlands or other natural resources adversely affected by an aboveground storage tank spill or release may submit a claim for consideration by the board for funding to provide long-term rehabilitation and maintenance of those wetlands or other natural resources.
- (7) To administer this chapter.
- (b) All of the following shall be deposited in the fund.
 - (1) Fees collected pursuant to Section 25270.6.
 - (2) Expenses recovered pursuant to Section 25270.9.
 - (3) Penalties collected pursuant to Section 25270.12.
 - (4) Amounts transferred pursuant to Section 3 of the act adding this chapter.
- The money in the fund shall be expended only for spills or releases which occur on or after January 1, 1990, except that the portion of the money the fund derived from Section 3 of the act which enacted this section, which is collected and due the state, may be expended in connection with expenses incurred as a result of any spill of crude oil exceeding 20,000

- gallons which occurred in April, 1988, from one or more facilities located in the County of Contra Costa or surrounding counties. Any reimbursement for costs associated with the spill, for which penalties were collected and appropriated under Section 3 of that act, shall not exceed the total penalty collected and transferred to the fund pursuant to Section 3 of that act.
- (d) If a state or local agency obtains full funding for abatement or cleanup of a spill or release from a source other than the fund for a purpose authorized by this chapter, that agency is not eligible to receive money from the fund pursuant to this section. Otherwise, nothing in this bill is intended to nullify any other existing provision of law.

History: Enacted by Stats 1989 Ch 1383§1.



§25270.12 Civil Penalties 25270.12.

- (a) Any owner or operator of a tank facility who fails to file a storage report pursuant to subdivision (a) of Section 25270.6, to submit the fee required by subdivision (b) of Section 25270.6, to establish the monitoring system required by Section 25270.7, to report spills as required by subdivision (e) of Section 25270.7 or by Section 25270.8, or otherwise to comply with the requirements of this chapter is subject to a civil penalty of not more than five thousand dollars (\$5,000) for each day on which the violation continues. If the owner or operator commits a second or subsequent violation, a civil penalty of not more than ten thousand dollars (\$10,000) for each day on which the violation continues may be imposed.
- (b) The civil penalties provided by this section may be assessed and recovered in a civil action brought by the board, the regional board, or the Attorney General.
- (c) The board, the regional board, or the Attorney General may seek to enjoin, in any court of competent jurisdiction, any person believed to be in violation of this chapter.
- (d) The penalties collected pursuant to this chapter shall be deposited in the fund.
- (e) The penalties specified in this section are in addition to any other penalties provided by law.

History: Enacted by Stats 1989 Ch 1383§1.



§25270.13 Preemption

This chapter does not preempt local storage tank ordinances, in effect as of August 16, 1989, which meet or exceed the standards prescribed by this chapter.

History: Enacted by Stats 1989 Ch 1383§1.



Back to Top of Page
If you have any questions, please contact us.

© 2003 State of California - Conditions of Use Privacy Policy